



DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Madrid Protocol

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice of information collection; request for comment.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651-0051 (Madrid Protocol). The purpose of this notice is to allow 60 days for public comment preceding submission of the information collection to OMB.

DATES: To ensure consideration, comments regarding this information collection must be received on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested persons are invited to submit written comments by any of the following methods. Do not submit Confidential Business Information or otherwise sensitive or protected information:

- *Email:* InformationCollection@uspto.gov. Include “0651-0051 comment” in the subject line of the message.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.
- *Mail:* Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Catherine Cain, Attorney Advisor, Office of the Commissioner for Trademarks, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 571-272-8946; or by email at Catherine.Cain@uspto.gov with “0651-0051 comment” in the subject line. Additional information about this information collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is required by the Trademark Act of 1946, 15 U.S.C. § 1051 et seq., which provides for the Federal registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. The Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol) is an international treaty that allows a trademark owner to seek registration in any of the participating countries by filing a single international application. The International Bureau (IB) of the World Intellectual Property Organization (WIPO) in Geneva, Switzerland, administers the international registration system. The Madrid Protocol Implementation Act of 2002 amended the Trademark Act to provide that: (1) the owner of a U.S. application or registration may seek protection of its mark in any of the participating countries by submitting a single international application through the USPTO and (2) the holder of an international registration may request an extension of protection of the international registration to the United States. The Madrid Protocol came into effect in the United States on November 2, 2003, and is implemented under 15 U.S.C. § 1141 et seq. and 37 CFR Part 2 and Part 7. Individuals and businesses that use or intend to use such marks in commerce may file an application to register the marks with the USPTO. Both the register and the information provided in pending

applications for registration can be accessed by the public in order to determine the availability of a mark and lessen the likelihood of initiating the use of a mark previously adopted by another.

II. Method of Collection

Items in this information collection must be submitted via online electronic submissions through the Trademark Electronic Application System (TEAS). In limited circumstances, applicants may also be permitted to submit the information in paper form by mail or hand delivery.

III. Data

OMB Control Number: 0651–0051.

Forms:

- PTO/1663 (Declaration of Continued Use/Excusable Nonuse of Mark in Commerce Under Section 71)
- PTO/1683 (Combined Declaration of Continued Use/Excusable Nonuse and Incontestability Under Sections 71 and 15)
- PTO/2131 (Application for International Registration)
- PTO/2132 (Application for Subsequent Designation)
- PTO/2133 (Response to Notice of Irregularity)
- PTO/2314 (Replacement Request)
- PTO/2315 (Transformation Request)
- PTO/2316 (Petition to Director to Review Denial of Certification of International Application)
- PTO/2317 (Petition to Director for an International Application/Registration)

Type of Review: Extension and revision of a currently approved information collection.

Affected Public: Private sector; individuals and households.

Respondent's Obligation: Required to obtain or retain benefits.

Estimated Number of Annual Respondents: 54,082 respondents.

Estimated Number of Annual Responses: 54,082 responses.

Estimated Time per Response: The USPTO estimates that the responses in this information collection will take the public approximately between 40 minutes (0.66 hours) to 75 minutes (1.25 hours) to complete. This includes the time to gather the necessary information, prepare the forms or documents, and submit the completed request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 48,671 hours.

Estimated Total Annual Respondent Hourly Cost Burden: \$21,171,885.

Table 1: Total Burden Hours and Hourly Costs to Private Sector Respondents

Item No.	Item	Estimated Annual Respondents (a)	Responses per Respondent (b)	Estimated Annual Responses (a) x (b) = (c)	Estimated Time For Response (hours) (d)	Estimated Burden (hour/year) (c) x (d) = (e)	Rate ¹ (\$/hour) (f)	Estimated Annual Respondent Cost Burden (e) x (f) = (g)
1	Application for International Registration PTO-2131	7,778	1	7,778	.66 (40 minutes)	5,133	\$435	\$2,232,855
2	Request for Extension of Protection of International Registration to the United States (WIPO)	34,960	1	34,960	1	34,960	\$435	\$15,207,600
3	Response to Notice of Irregularity PTO-2133	812	1	812	.66 (40 minutes)	536	\$435	\$233,160
4	Replacement Request PTO-2314	10	1	10	.75 (45 minutes)	8	\$435	\$3,480
5	Transformation Request PTO-2315	2	1	2	.66 (40 minutes)	1	\$435	\$435
6	Petition to Director to Review Denial of Certification of International Application PTO-2316	3	1	3	1.25 (75 minutes)	4	\$435	\$1,740

¹ 2021 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); pg F-27. The USPTO uses the average billing rate for intellectual property attorneys in private firms which is \$435 per hour. (<https://www.aipla.org/home/news-publications/economic-survey>)

7	Application for Subsequent Designation PTO-2132	740	1	740	1.25 (75 minutes)	925	\$435	\$402,375
8	Declaration of Continued Use/Excusable Nonuse of Mark in Commerce Under Section 71 PTO-1663	4,703	1	4,703	.66 (40 minutes)	3,104	\$435	\$1,350,240
9	Combined Declaration of Continued Use/Excusable Nonuse and Incontestability Under Sections 71 and 15 PTO-1683	2,317	1	2,317	.66 (40 minutes)	1,529	\$435	\$665,115
10	Petition to Director for an International Application/Registration PTO-2317	50	1	50	.66 (40 minutes)	33	\$435	\$14,355
	Total	51,375	---	51,375	---	46,233	---	\$20,111,355

Table 2: Total Burden Hours and Hourly Costs to Individuals and Households Respondents

Item No.	Item	Estimated Annual Respondents	Responses per Respondent	Estimated Annual Responses	Estimated Time For Response (hours)	Estimated Burden (hour/year)	Rate ² (\$/hour)	Estimated Annual Respondent Cost Burden
		(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)	(f)	(e) x (f) = (g)
1	Application for International Registration PTO-2131	409	1	409	.66 (40 minutes)	270	\$435	\$117,450
2	Request for Extension of Protection of International Registration to the United States (WIPO)	1,840	1	1,840	1	1,840	\$435	\$800,400
3	Response to Notice of Irregularity PTO-2133	43	1	43	.66 (40 minutes)	28	\$435	\$12,180
4	Replacement Request PTO-2314	1	1	1	.75 (45 minutes)	1	\$435	\$435
5	Transformation Request PTO-2315	1	1	1	.66 (40 minutes)	1	\$435	\$435

² Ibid.

6	Petition to Director to Review Denial of Certification of International Application PTO-2316	2	1	2	1.25 (75 minutes)	3	\$435	\$1,305
7	Application for Subsequent Designation PTO-2132	39	1	39	1.25 (75 minutes)	49	\$435	\$21,315
8	Declaration of Continued Use/Excusable Nonuse of Mark in Commerce Under Section 71 PTO-1663	248	1	248	.66 (40 minutes)	164	\$435	\$71,340
9	Combined Declaration of Continued Use/Excusable Nonuse and Incontestability Under Sections 71 and 15 PTO-1683	122	1	122	.66 (40 minutes)	81	\$435	\$35,235
10	Petition to Director for an International Application/Registration PTO-2317	2	1	2	.66 (40 minutes)	1	\$435	\$435
	Totals	2,707	---	2,707	---	2,438	---	\$1,060,530

Estimated Total Annual Respondent Non-hourly Cost Burden: \$21,516,380. This information collection has no capital start-up, maintenance costs, or recordkeeping costs. However, this information collection does have annual costs in the form of filing fees and postage costs.

Filing Fees

Filing fees are charged per class of goods or services and can vary depending on the number of classes. The filing fees shown here are based on the minimum fee of one class per document associated with this information collection.

Table 3: Estimated Total Annual Respondent Filing Fee Cost Burden

Item No.	Item	Estimated Annual Responses (a)	Filing Fee (\$) (b)	Total Non-hour Cost Burden (yr) (a) x (b) = (c)
1	Application for International Registration (for certifying an international application based on a single basic application or registration, per international class) (TEAS)	6,959	\$100	\$695,900

1	Application for International Registration (for certifying an international application based on a single basic application or registration, per international class) (paper)	1	\$200	\$200
1	Application for International Registration (for certifying an international application based on more than one basic application or registration, per international class) (TEAS)	1,228	\$150	\$184,200
1	Application for International Registration (for certifying an international application based on more than one basic application or registration, per international class) (paper)	1	\$250	\$250
2	Request for Extension of Protection of International Registration to the United States (WIPO)	36,800	\$500	\$18,400,000
3	Transmitting a Subsequent Designation under Section 7.21 (TEAS)	779	\$100	\$77,900
3	Transmitting a Subsequent Designation under Section 7.21 (paper)	1	\$200	\$200
4	Notice of Replacement under Section 7.28 (per international class) (TEAS)	10	\$100	\$1,000
4	Notice of Replacement under Section 7.28 (per international class) (paper)	1	\$200	\$200
6	Transformation Request (per international class (TEAS)	2	\$350	\$700
6	Transformation Request (per international class) (paper)	1	\$750	\$750
7	Petition to Director to Review Denial of Certification of International Application (TEAS)	5	\$250	\$1,250
7	Petition to Director to Review Denial of Certification of International Application (paper)	1	\$350	\$350
8	Declaration of Continued Use/Excusable Nonuse of Mark in Commerce Under Section 71 (per international class) (TEAS)	4,951	\$225	\$1,113,975
8	Declaration of Continued Use/Excusable Nonuse of Mark in Commerce Under Section 71 (per international class) (paper)	1	\$325	\$325
9	Combined Declaration of Continued Use/Excusable Nonuse and Incontestability Under Sections 71 and 15 (per international class) (TEAS)	2,439	\$425	\$1,036,575
9	Combined Declaration of Continued Use/Excusable Nonuse and Incontestability Under Sections 71 and 15 (per international class) (paper)	1	\$625	\$625
10	Petition to Director for an International Application/Registration (TEAS)	2	\$250	\$500
10	Petition to Director for an International Application/Registration (paper)	1	\$350	\$350
10	Request to Record an Assignment or Restriction, or Release of a Restriction, under Sections 7.23 and 7.24 (TEAS)	8	\$100	\$800
10	Request to Record an Assignment or Restriction, or Release of a Restriction, under Section 7.23 and 7.24 (paper)	1	\$200	\$200
	Total	53,193		\$21,516,250

Postage Costs

Although the USPTO requires that the items in this information collection be submitted electronically, the items may, in limited situations, be submitted by mail through the United States Postal Service (USPS). Approximately 14 submissions per

year are estimated to be mailed to the USPTO. The USPTO estimates that the average postage cost for a mailed submission, using a Priority Mail flat rate legal envelope will be \$9.25. Therefore, the USPTO estimates \$130 in postage costs associated with this information collection.

IV. Request for Comments

The USPTO is soliciting public comments to:

- (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;
- (b) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (c) Enhance the quality, utility, and clarity of the information to be collected; and
- (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

All comments submitted in response to this notice are a matter of public record. USPTO will include or summarize each comment in the request to OMB to approve this information collection. Before including an address, phone number, email address, or other personally identifiable information (PII) in a comment, be aware that the entire comment—including PII—may be made publicly available at any time. While you may ask in your comment to withhold PII from public view, USPTO cannot guarantee that it will be able to do so.

Kimberly Hardy,

Information Collections Officer,

Office of the Chief Administrative Officer,

United States Patent and Trademark Office.

[FR Doc. 2022-02641 Filed: 2/8/2022 8:45 am; Publication Date: 2/9/2022]